IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 6TH JULY 2007 / 15TH ASHADHA 1929

Bail Appl..No. 4024 of 2007()

CC.179/2005 of C.J.M.,TRIVANDRUM

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: PETITIONER/4TH ACCUSED

RAHUL, S/O VIJAYAN,
N.G.O.QUARTERS, NO.117,
MELARANNOR, TYCADU VILLAGE,
THIRUVANANTHAPURAM.

BY ADV. SRI.MANOJ P.KUNJACHAN
SRI.R.JAYAKRISHNAN NAIR

RESPONDENTS: COMPLAINANT

SUB INSPECTOR OF POLICE,
MUSEUM POLICE STATION, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 06/07/2007, ALONG WITH BA NOS. 4080 & 4134 OF 2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.Nos.4024, 4080 & 4134 of 2007

Dated this the 6th day of July, 2007

ORDER

Applications for regular bail. Petitioners are accused 4 to 7 in a prosecution for offences punishable, inter alia, under Section 452 read with 149 I.P.C. That is the only non bailable offence alleged. The crux of the allegations is that the accused persons were members of an unlawful assembly of persons who in prosecution of their common object trespassed into the residential building of the defacto complainant and indulged in violent overt acts using dangerous weapons. The case was charge sheeted. The petitioners were on bail. Accused 1 to 3 were in custody. When the first witness was examined, he did not support the case of the prosecution. When the learned Magistrate alertly probed into the matter, it was revealed that PW1 was not supporting the version of the prosecution because he had been threatened and intimidated by the 1st accused in the veranda of the court hall. The learned Magistrate, in these circumstances, directed that all the accused be remanded to custody. They continue in custody from that date, ie. 06.06.07. Thereafter, two remaining eye witnesses have already been examined. They had supported the case of the prosecution. One more witness remains to be examined. Accused 1 to 3 are already in custody. No overt act whatsoever was

alleged against the petitioners herein. In these circumstances, it is prayed that the petitioners may now be enlarged on bail.

2. The learned Public Prosecutor does not oppose the said prayer and I am satisfied that subject to appropriate conditions, the petitioners can now be released on bail. A report of the learned Magistrate was called for. It appears that some further time will be required for final disposal of the case as further witnesses have to be examined.

3. I am satisfied, in these circumstances, that subject to appropriate conditions, these bail applications can be allowed and the petitioners can be enlarged on bail.

4. In the result, these applications are allowed. The petitioners shall be released on bail on the following terms and conditions.

i) The petitioners shall execute bonds for Rs.1,00,000/- (Rupees One lakh only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioners shall not enter the Sessions divisions of Trivandrum until further orders, except for the purpose of appearing for trial in the instant case, without the permission of the learned Magistrate. After the eye witnesses are examined in the case, the Magistrate can consider such applications for the petitioners to relax the said condition;

iii) The petitioners shall not, in any way, contact or be in touch with the witnesses, to be examined in the case in any manner, until the case against them is disposed of.

(R.BASANT, JUDGE)

rtr/-